IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 19698 of 2006
Date of Decision: Dec.12,2006

Satpal Singh ..... Petitioner

Versus

Joint Development Commissioner (IRD), Punjab and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. Harsh Bunger, Advocate
for the petitioner.

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ASHUTOSH MOHUNTA, J.

The petitioner is aggrieved by the order dated 16.9.2002 (Annexure P-9) passed by the District Development and Panchayat Officer-cum-Collector, Panchayat Lands, Nawanshahr, and the order dated 13.1.2004 (Annexure P-11) passed by the Joint Development Commissioner (IRD), Punjab, by which the petitioner has been held to be in illegal possession of the land in dispute and has been directed to handover the vacant possession of the land to the Gram Panchayat.

Briefly the facts of the case are that the Gram Panchayat of village Mahal Gahila, Tehsil & District Nawanshahr, filed a petition under Section 7 of the Punjab Village Common Lands (Regulations) Act, 1961 (for short the `Act') for eviction of the petitioner from the land situated in Khasra No.90 (Min) (1-5), Khewat No. 904, Khatauni No. 1351. It was averred that the petitioner is in illegal occupation of the aforementioned land which vests in the Gram Panchayat. It was further stated that the land

was reserved for Devi Mandir, Shiv Mandir and a Pond and that the petitioner has taken forcible possession of the suit land and that he is liable to be evicted from the same. It was the case of the Gram Panchayat that in the ownership column the land has been recorded as "Jumla Malkan Hasab Kabja Arazi" and that the land was reserved for common purposes of the village. It was further averred that the Gram Panchayat has been managing and using the land for common purposes and that the present petitioner has no concern with the same. The averments made by the Gram Panchayat were denied by the petitioner who stated that he is in occupation of the suit land for the last 42 years and that the same belongs to him. Before the Collector, no evidence was produced to show that the possession of the petitioner was for the last 42 years or so. Moreover, the petitioner was not the owner of any land in the village either at the time of passing of the orders by the Collector nor at the time of consolidation and, accordingly, the Collector vide order-Annexure P-9 allowed the petition under Section 7 of the Act filed by the Gram Panchayat and directed the petitioner to handover vacant possession of the land to the Gram Panchayat within 30 days. In appeal, the Commissioner also upheld the findings of the Collector and dismissed the appeal.

Counsel for the petitioner has contended that as the land in dispute has been recorded to be "Jumla Malkan Hasab Kabja Arazi" and, therefore, the same is not shamlat land as provided under Section 2(G) of the Act.

A perusal of the impugned orders clearly shows that the land belonged to Devi Mandir, Shiv Mandir and was part of a Pond and that the Gram Panchayat had been managing the same. Moreover, the land had not been partitioned and, hence, its control was with the Gram Panchayat. Apart from the above, the petitioner did not own any land in the village either at the time of consolidation or thereafter. No evidence has been produced by the petitioner to show his continuous possession over the suit land for a period prior to 26.1.1950.

In this view of the matter, the petitioner has rightly been held to be in illegal occupation of the land in dispute and has been ordered to be evicted from the same.

Resultantly, we find no merit in the writ petition and the same is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

12.12.2006 **(NIRMAL YADAV)**
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